

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DWAYNE ALMOND,

Plaintiff,

v.

Case No. 14-cv-901-pp

**WILLIAM POLLARD, DR. BAIRD,
DR. ENDRES, DR. JOHNSON,
DR. LUDVEGSON, N. KAMPHUIS,
MR. NESBIT, WELCOME ROSE,
CHARLES FACKTOR, MATTHEW FRANK,
and KAREN GOURLIE,**

Defendants.

DECISION AND ORDER DISMISSING CASE

The *pro se* plaintiff is incarcerated at Waupun Correctional Institution. On November 14, 2014, Magistrate Judge William E. Callahan granted the plaintiff's motion for leave to proceed *in forma pauperis*, determining that because the plaintiff alleged that he was under imminent danger of serious physical injury he could proceed *in forma pauperis* despite having accumulated three "strikes," see 28 U.S.C. § 1915(g). Dkt. No. 14. On December 29, 2014, the Clerk of Court reassigned the case to Judge Pepper. The defendants subsequently filed a motion asking Judge Pepper to reconsider Judge Callahan's order granting the plaintiff's motion for leave to proceed *in forma pauperis*. Dkt. No. 30.

On April 29, 2015, the court denied the defendants' motion for reconsideration because, based on the information Magistrate Judge Callahan

had before him at the time he made his decision, the plaintiff's allegations were sufficient to allege imminent danger of serious physical injury. Dkt. No. 42. In the same order, however, the court revoked the plaintiff's *in forma pauperis* status based on information that came to light after Judge Callahan made his decision, and ordered the plaintiff to pay the full filing fee by June 1, 2015, or the court would dismiss the case. Dkt. No. 42 at 9. The court reasoned that the evidence submitted, "both by the defendants . . . and by the plaintiff . . . do[es] not support the plaintiff's allegations that he is under imminent danger of serious physical injury." *Id.* at 8. Rather, the "evidence indicates that prison staff and medical professionals are monitoring and evaluating the plaintiff's condition (even if the court takes as true for the purposes of this order that the plaintiff's assertions that certain encounters with staff did not take place)." *Id.* at 8-9.)

In the four months since the court issued that order, the plaintiff has not paid the filing fee. Instead, he has filed a motion opposing the court's order revoking his *in forma pauperis* status (Dkt. No. 43), a motion to "reinstate" his February 9, 2015, motion for summary judgment (Dkt. No. 45), a motion requesting the docket sheet and setting forth the defendants' alleged misconduct (Dkt. No. 46), a motion "showing Attorney General has Continuously Used Prejudices and Misconduct Retaliation" (Dkt No. 49), and a brief in support of Docket Numbers 42, 43, and 46 (Dkt. No. 50). The defendants have filed two letters requesting that the court dismiss the case because the plaintiff has failed to pay the full filing fee, as directed.

As indicated in the April order, the court has considered the parties' evidence and determined that the plaintiff is not under imminent danger of serious physical injury because both prison staff and medical staff are monitoring and evaluating his mental health care needs. See Taylor v. Watkins, 623 F.3d 483, 485 (7th Cir. 2010). The plaintiff's motion opposing the court's order revoking *in forma pauperis* (Dkt No. 42) rehashes his previous arguments and, as a result, does not change the court's conclusion that he is not under imminent danger of serious physical injury.

The court warned the plaintiff that failure to pay the full filing fee would result in dismissal of this case. The plaintiff has not paid the full filing fee. Therefore, the court will dismiss this case.

The court **DENIES** the plaintiff's motion opposing order (Dkt. No. 43).

The court **DENIES** the plaintiff's motion to reinstate summary judgment motion (Dkt. No. 45).

The court **DENIES** the plaintiff's motion for reconsideration (Dkt. No. 46).

The court **DENIES** the plaintiff's motion regarding Attorney General (Dkt. No. 49).

The court **ORDERS** that this case is **DISMISSED** for failure to pay the filing fee.

Dated at Milwaukee this 9th day of September, 2015.

BY THE COURT:

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line extending to the right.

HON. PAMELA PEPPER
United States District Judge